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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,855	02/25/2002	Moshe Rock	10638-012001	6821

26161 7590 06/18/2004

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EXAMINER

DAHBOUR, FADI H

ART UNIT PAPER NUMBER

3743

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/082,855	<b>Applicant(s)</b> ROCK ET AL.	
	<b>Examiner</b> Fadi H. Dahbour	<b>Art Unit</b> 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3, 12, 13, 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 14-16, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2 and 4-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*[Handwritten signature]*

### DETAILED ACTION

1. The Examiner acknowledges Applicant's submission of the election of claims 1-2, 4-11, 14-16, 19-20, filed on 04/26/2004. Claims 3, 12-13, 17-18 being withdrawn from consideration as being drawn to a non-elected invention.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 14-16, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westerman et al in view of Moser.

Westerman discloses an electric heating/warming element (Figs.1-10), comprising a bladder (see "bladder" in line 2 of abstract), an electrical heating/warming circuit extending within the bladder (see "containing...heating element" in lines 2-3 of abstract), wherein the electrical heating/warming circuit generates heat when attached to a source of electrical power (see "electrical power is applied to" in lines 7-8 of abstract), and also, incorporated into one of an article of clothing, a heating pad, a blanket, piece of sports equipment, a medical device and a textile home furnishing (Figs.1-6, 8-10), wherein the bladder includes a first and a second layer, each of which provides an inner surface of the bladder (51, 52 of Fig.9), the electrical heating/warming circuit being associated with one of the inner surfaces (57 of Fig.9), further comprising a phase change component associated with the bladder and including a phase change material formulated to

change phase in a temperature range of use of the heating/warming element to cyclically absorb and release latent heat in a manner capable of conserving use of the electrical power source (see "further comprising... bladder housing the phase change material" in lines 21-22 of col.8), wherein the electrical heating/warming circuit comprises a die-cut sheet-form metalized layer attached to one of a first and a second broad surface of a fabric body (see lines 18-23 of col.5).

Westerman lacks a water-resistant vapor-permeable polymeric hydrophobic material. Moser discloses a water-resistant vapor-permeable polymeric hydrophobic material (see "a waterproof moisture-permeable material such as... polytetrafluoroethylene" in lines 5-6 of abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the feature taught by Moser, in the device of Westerman, because Moser teaches that it is suitable material for use in a bladder (see "a bladder formed from a waterproof moisture-permeable material such as... polytetrafluoroethylene" in lines 4-6 of abstract of Moser).

#### ***Allowable Subject Matter***

4. Claims 2, 4-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Bassick et al is cited to show a bladder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Fadi H. Dahbour  
Examiner  
Art Unit 3743